

<b>SUBJECT:</b>	<b>LEISURE CENTRE SERVICES - URGENT APPOINTMENT OF AN INTERIM PROVIDER</b>
<b>DIRECTORATE:</b>	<b>COMMUNITIES AND ENVIRONMENT</b>
<b>REPORT AUTHOR:</b>	<b>SIMON WALTERS, DIRECTOR OF COMMUNITIES AND ENVIRONMENT</b>

## **1. Purpose of Report**

- 1.1 Following the announcement that Active Nation ceased trading on Thursday 3 April 2025, this report seeks authority to urgently procure a new leisure provider utilising emergency provisions contained within the public procurement regulations governing public sector contracting.
- 1.2 As reported in the January 2025 report to committee, the charity was finding it increasingly difficult to maintain a positive trading position due to the double impact of both dramatically increased energy costs and a client base affected by the cost-of-living crises, necessitating the offer of a support package from the City Council at that time. This package was unfortunately turned down by Active Nation and a series of related events ensued that ultimately led to the charity ceasing to trade. This has left the City Council with no leisure provider and the centres closed.

## **2. Executive Summary**

- 2.1 As covered in the report to Executive on 20 January 2025, the City Council's contractor for leisure centre provision in the city, Active Nation, was finding it increasingly difficult to maintain a positive trading position due to the double impact of both dramatically increased energy costs and a client base affected by the cost-of-living crises.
- 2.2 The City Council's contract with Active Nation was such that the Council did not pay a management fee and the charity operated the centres on a commercial basis and was therefore expected to absorb all cost increases/ income pressure. As reported in the January 2025 report to committee, the charity was finding it increasingly difficult to achieve that, necessitating the offer of a support package from the City Council at that time. This package consisted of an offer of a two-year support package worth £480k of additional income plus the suspension of debt repayments to the City Council.
- 2.3 This package was unfortunately turned down by Active Nation and a series of related events ensued that ultimately led to the charity ceasing to trade. This has left the City Council with no leisure provider and the centres closed.
- 2.4 This report therefore seeks urgent approval commence the procurement of an interim provider for the City Council's outdoor and indoor leisure centre provision at Yarborough Leisure Centre and Birchwood Leisure Centre for a two-year period whilst longer term options are more fully developed and appraised.

### **3. Background**

- 3.1 As covered in the report to Executive on 20 January 2025, there had been concerns over the continued financial viability of Active Nation which resulted in the offer of a two-year support package worth £480k of additional income plus the suspension of debt repayments to the City Council. A key feature of that package was the insertion into the contract of a break clause that enabled the Council to give 12 months' notice to terminate the contract at any time.

This arrangement was to be put in place for a period of 2 years with a review at that time of the charity's position with a view to either terminating the contract or returning to the original agreement.

- 3.2 Active Nation initially accepted the offer, and an initial payment of £20,000 was made to ensure they received an injection of cash quickly. However, following further consideration of the offer, the Trustees of Active Nation developed reservations about the 12-month termination clause forming part of the offer. They felt that exposed the charity to too much risk of the City Council cancelling the contract at a later date. The intention of this clause was to protect both the Council and local supporters (paid in advance members) of Active Nation as it effectively limited Active Nation to only selling 'paid in advance' memberships of a maximum of one year. It also gave the City Council the ability to exit the contract should Active Nation trading position worsen further. Nevertheless, Active Nation formally declined the offer on 6 February 2025.
- 3.3 The trading position of Active Nation remained challenging, despite assurances that these challenges were being managed, and on 3 April 2025, Active Nation made the decision to cease trading and seek to wind the charity up.
- 3.4 The centres have therefore had to close to the public, and remain so, until the City Council can urgently procure a new service provider to resume operations at both leisure centres.

### **4. The Options Considered**

- 4.1 As Executive are aware, the City Council is supported by a very experienced consultancy firm in the leisure industry (Max Associates). They have provided support, advice and financial modelling to help officers navigate the way forward.
- 4.2 Various options have been considered including:
- A. Urgently procure an interim leisure provider for up to two years to replace Active Nation and use this period to pause and reflect on the future of leisure provision
  - B. Urgently procure an interim leisure provider for up to two years to replace Active Nation and then straight after that, start the process of procuring a long-term provider
  - C. Consider the Council's role in direct provision of leisure facilities in the city and the role of other providers in the City to see if the mix could change

#### D. Bring the service 'in house.'

- 4.3 A full appraisal of all the options by both Max Associates (financial business case assessment) and officers (high level strategic case) has been undertaken, driven by a very strong desire to see the leisure centres re-opened as quickly as possible. It is noted that the centres play a vital role in supporting the physical and mental health of residents of the city and beyond. Therefore, Option A is considered the most appropriate route to follow. This option offers the best balance as it:
- Offers the fastest route to re-opening the two centres
  - Will enable a leisure provider to take control who has the necessary experience, expertise, knowledge and resources to make it a success
  - Gives Members and officers the time and space to carefully consider the changing local government landscape and leisure industry itself before committing to a longer-term contract. That doesn't need to happen now and can be developed over the months ahead.
- 4.4 Further details of the challenging **financial** implications included within this evaluation are covered in the separate report within Part B of this agenda.

### 5. Specification for the Service

- 5.1 Max Associates have developed a specification for delivery of the service. This is designed to offer a range of indoor and outdoor facilities which will be retained at both Yarborough Leisure Centre and Birchwood Leisure centre. It is further anticipated that any new provider will use their knowledge of the industry to introduce new initiatives as well.
- 5.2 The authority has already been approached by a number of national operators of leisure centres, many with numerous facilities around the country. It is anticipated that a contract to deliver services from these two centres will be popular.
- 5.3 The Procurement Act 2023 under section 41 allows for the appointment of a supplier by direct award in special cases. The Council will still be required to demonstrate that this direct award meets one of the justifications as set out within the Act and that a Transparency Notice is published (as detailed in section 44) prior to the award of a public contract.

### 6. Timeline

- 6.1 Indicative timelines mapped out by officers in consultation with Max Associates indicate that it will take approximately 12 weeks to appoint a preferred provider and re-open the centres. To comply with the procurement objectives, but taking into account the urgency of the matter, the Council will undertake limited and informal shortlisting of potential providers. The process will enable the Council to request that providers demonstrate how they would meet its requirements and to provide a price, on which basis the Council can make its decision.

## **7. Interim Work**

- 7.1 It is noted that 12 weeks is a long time for those engaged in competitive sport. Officers are therefore exploring options that could bring some limited facilities back sooner i.e. prior to the new provider taking over. Officers are liaising with partners in the city to see if facilities can be made available sooner for clubs who have competitions to deliver or who have members in training or who provide vital diversionary services to young people in the city. Officers will verbally update Executive at the meeting on the rapid progress being made on this strand of work.

## **8. Conclusions**

- 8.1 This is an incredibly difficult situation involving a high-profile front-line service. Officers have had to navigate a position that was out of the Council's direct control in terms of the collapse of Active Nation. However, now the centres are back in Council control, officers can work at speed to re-procure. Work has already started to make the necessary repairs to the buildings that were not completed during Active Nation's tenure. This will ensure the centres are ready for a new provider.

## **9. Strategic Priorities**

### **9.1 Let's Drive Inclusive Economic Growth**

Active Nation were a large employer in the city be it directly or through the local supply chain. There will be an impact now Active Nation have ceased trading. Officers will emphasise with any new provider, their role in supporting local employment and the wider local economy.

### **9.2 Let's Reduce All Kinds of Inequality**

The Active Nation offer did make access to leisure provision very affordable for a wide range of people in and around the city. The location of centres north and south added to this accessibility. Coupled with their extensive use by clubs, the service directly contributed to tackling inequality and its loss has immediately been felt.

It is clear that from a national (and local) perspective, access to leisure remains important and officers are committed to restore all facilities as soon as possible.

### **9.3 Let's Enhance Our Remarkable Place**

Provision of leisure facilities is a key aspect of the Remarkable Place priority, and is a service closely linked with the City Council.

## **10. Organisational Impacts**

### **10.1 Finance**

The contract with Active Nation was a zero-management fee contract, meaning that the Council did not incur an annual cost for the service provision (neither did it receive any of the income). This means the charity was an independent trading entity. Any new arrangement with an alternate provider will likely incur a

substantial cost to the Council and will require a re-prioritisation of resources. This is explored in more detail in a separate report in Part B of the agenda.

## **10.2 Legal Implications Including Procurement Rules**

The appointment of a preferred provider will be undertaken in line with the requirements of the Procurement Act 2023.

All other requirements where the Council does not currently have in place a contract that can be utilised in the interim period, will be procured in accordance with its own Contract Procedure Rules.

## **10.3 Equality, Diversity and Human Rights**

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

There are considered to be no direct implications arising from this report as the recommended option is to re-procure the full suite of leisure services operating from the two leisure centre sites in the city.

## **10.4 Land, Property and Accommodation**

There are two leisure centres directly impacted by this report, previously operated by Active Nation under a contractual arrangement with the Council. Now that contract has ended, then the centres (and their full maintenance) have returned to the City Council for a short period until a new provider is procured.

## **10.5 Significant Community Impact**

There is significant community impact arising from Active Nation ceasing to trade as the leisure centres are closed. Officers are working to ensure this is not for an elongated period. Whilst residents will be able to take advantage of other facilities within the vicinity of the city to access Gym and Swimming – these are not offered via the City Council sites and in the case of public ‘pay per session’ swimming – this is located in just one location in North Hykeham.

## **11. Risk Implications**

### **11.1 (i) Options Explored**

As covered in the main report – four options were considered.

## 11.2 (ii) Key Risks Associated with the Preferred Approach

The key risk is that any new provider will take time to build the business back up. The risk is mitigated through a robust evaluation process to select the preferred operator where their proposal for restoration of service and associated financial viability will be scrutinised in detail.

## 12. Recommendation

12.1 Members are recommended to:

- i) Approve the urgent commencement of the procurement process for a new leisure operator for the indoor and outdoor facilities at both Yarborough Leisure centre and Birchwood Leisure centre for a two-year period.
- ii) Report back to Executive the outcome of that process prior to entering into the contract and to set out the cost implications and funding package.

Is this a key decision? Yes

Do the exempt information categories apply? No

Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply? No

How many appendices does the report contain? None

List of Background Papers: None

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